



# **Omnibus Alcoholic Beverage Regulation Amendment Act of 2014**

**District of Columbia**

**Alcoholic Beverage Regulation Administration**

# Omnibus Alcoholic Beverage Regulation Amendment Act of 2014

- Law is effective May 2, 2015.
- Clarifies existing District alcohol laws.
- Creates new licenses and permits.
- Provides updates to adjudication and enforcement.



# Definitions

# Defining Disc Jockeys

§ 25-101 (19A)

A disc jockey is anyone who plays or changes prerecorded music in addition to doing any of the following:

Making announcements or comments;

Taking song requests;

Running contests or games;

Manipulating or mixing music;

Providing live entertainment;

Playing music from a disc jockey booth; or

Altering a playlist while it's played or adding elements such as sound effects or additional music.



# New Licenses and Permits

# Festival License

§ 25-127

- Permits the temporary sale, service, and consumption of alcoholic beverages at a defined location.
- Festival licenses may only be issued for events that:
  - Include sporting, cultural or tourism-related activities.
  - Span 5-15 consecutive days.
- There are two types of festival licenses:
  - Class H – Permits the sale of beer and wine. Fee is \$1,000.
  - Class I – Permits the sale of beer, wine, and spirits. Fee is \$2,000.
- Only one festival license may be issued to an applicant in a three-month period.



# Festival License

§ 25-127

- Issuance of a festival license is at the discretion of the Alcoholic Beverage Control Board (Board).
- License can be denied if the applicant previously held a festival or temporary license and:
  - Failed to control the environment of a previous event; or
  - Sustained community complaints or police action.
- A holder of a festival license is permitted to receive deliveries from a wholesaler for up to 48 hours before a Board-licensed event if the:
  - Event occurs on a Saturday, Sunday or a legal District or federal holiday;
  - The alcoholic beverages delivered are not consumed until the date and time of the event; and
  - Alcohol is stored at a secure location before the event.



# Class C Manufacturer's License

§ 25-110(3)(A)

- A manufacturer's license class C permits the operation of a facility (such as a bakery) for the manufacture of alcohol-infused confectionary food products.
- The license also permits the sale of alcohol-infused confectionary food products to:
  - Another licensee licensed in the District for resale;
  - A dealer licensed under the law of any state or territory of the United States for resale; and
  - A consumer 21 years of age or older.
- All alcohol-infused confectionary food products that are manufactured or sold may contain between .5% and 5% of alcohol by volume. Products may not contain alcohol in excess of 5% by volume.





# Class C Manufacturer's License

§ 25-110(3)(A)

- Alcohol-infused confectionary food products must be sold in a sealed or closed containers that are properly labeled. Labels must state the:
  - Sale of the product to an individual under 21 years of age is prohibited;
  - Brand of alcohol used; and
  - Food product contains alcohol up to 5% by volume.
- A holder of a manufacturer's license class C is required to obtain and maintain all required Department of Health licenses related to the sale and manufacture of alcohol-infused confectionary food products.



# Class C Manufacturer's License

§ 25-110(3)(A)

- The holder of a manufacturer's license class C is prohibited from conducting tastings of alcohol-infused baked goods or selling alcoholic beverages.
- Manufacturer's license class C permits the sale and delivery of alcoholic beverages between 7 a.m. and midnight, seven days a week.
- Annual license fee is \$1,000.



# On-Site Sales and Consumption Permit

§ 25-110(a) and § 25-126

- The holder of a manufacturer's license class A (distillery or winery) can now apply for an on-site sales and consumption permit.
- Permit allows a distillery or winery to use a portion of the licensed premises to sell, serve and allow customers to consume:
  - Wine manufactured by the winery; or
  - Spirits produced by the distillery.
- Products can be sold from 1-9 p.m., daily.



# On-Site Sales and Consumption Permit

§ 25-110(a) and § 25-126

- Permit allows a distillery to add additional spirits to a beverage; however, the beverage must primarily contain spirits distilled by the distillery.
  - Any additional spirits that are added to beverages must be purchased from a District licensed wholesaler or manufacturer.
  - Beverages are defined to include brandy, cordials, fortified wines, liqueur, and non-alcoholic products.
- Holders of on-site sales and consumption permits would still need to obtain a tasting permit to provide samples of products to customers at no cost.



# Licensing Updates

# Class A Manufacturer's License Update

§ 25-110(a) and § 25-126

- The following can now be sold directly to the consumer by the holder of a manufacturer's license class A (winery):
  - Wine, cider, and mead in barrels.
  - Wine, cider, and mead in sealed bottles.
    - Cider and mead are categorized as wine products.
    - Alcohol content may not exceed 15%.



# Restaurants in Hotels

§ 25-113(e)

- A restaurant operating inside of a hotel is now eligible to apply for and obtain a hotel license, provided that:
  - The restaurant has a written agreement with the hotel that allows the restaurant to sell and serve alcoholic beverages in the:
    - Hotel's dining room,
    - Lounges,
    - Banquet halls, or
    - Private rooms of registered guests.



# Tasting Permit Endorsement

## § 25-118

- A tasting permit allows a portion of the licensed premises to be used for the tasting of products by the following licensees:
  - Manufacturers with class A or B licenses; or
  - Retailers with class A or B licenses.
- Class A manufacturer's licensees can now offer tastings of wine and spirits.
  - This also permits tastings of cider and mead, which are categorized as wine.
- The reference to full service grocery stores has been deleted from this section since all class B retailers are now eligible for tasting permits.





# Extended Holiday Hours Program

§ 25-723(c)(4)

- Retailers will no longer need to apply every year to participate in the District's extended holiday hours program.
- On-premises retailers still need to apply 30 days before the first holiday they want to participate.
- A licensee must file a public safety plan with the Board with the initial application.



# Sidewalk Cafés and Summer Gardens

§ 25-113(a)

- A holder of a class CX or class DX multipurpose facility or private club license is now eligible to apply for the following:
  - Sidewalk café endorsement
  - Summer garden endorsement



# General Qualifications for Applicants

§ 25-301(a)(5)

- This section of the law has been amended.
- It now clarifies that an applicant for a manager's license is not required or expected to be the true and actual owner of the establishment.



# 400-Foot Rule and Internet Sales

§ 25-333

- The 400-foot distance limitation between off-premises retailer's licenses class A and B no longer applies, if:
  - The new applicant's establishment will not be open to the public; and
  - The sale of alcoholic beverages will occur only through the Internet.



# Georgetown Historic District

## § 25-339 (a)

- A tavern or nightclub license class C or D within the Georgetown Historic District can now be transferred to a new owner or to a new location.
- A total of six tavern and nightclub licenses are permitted in the Georgetown Historic District.



# Ward 4 Moratorium

§ 25-340.01(b)

- The Ward 4 moratorium has been amended to clarify that:
  - The prohibition on issuing new licenses in Ward 4 applies to retailer class A and B licenses, and
  - Not to manufacturer or wholesaler licenses.



# License Renewal Period

§ 25-446(d)

- An application to amend or terminate a settlement agreement is required to be filed:
  - During the license's renewal period; and
  - After four years from the Board's decision initially approving the settlement agreement.
- The bill defines the license renewal period to mean the 60-day period before the expiration date of the license.



# Adjudication Updates



# Location Transfer Applications and Settlement Agreements

§ 25-317

- Location transfer applicants may petition the Board in writing to not have provisions of an existing settlement agreement applied to a new location.
- The petition will be considered a substantial change subject to public notice and placarding.



# Location Transfer Applications and Settlement Agreements

§ 25-317

- The applicant must demonstrate to the satisfaction of the Board that:
  - The request will not adversely impact the neighborhood where the establishment is located.
  - None of the provisions of the existing settlement agreement or the agreement in its entirety are applicable to the new location.
- The Board may amend, terminate, or maintain the existing settlement agreement at the new location.



# Advisory Neighborhood Commission (ANC) Comments

§ 25-609(b)

- In the event an affected ANC submits a settlement agreement to the Board on a protested application, the Board, upon approval, shall dismiss the protest of a group of 5 or more residents.
- New law clarifies that the Board's approval of an affected ANC's settlement agreement does not dismiss the protest of an abutting property owner.



# Administrative Review

§ 25-432(a)

- The Board is no longer required to conduct an administrative review if no protests are filed during the protest period.
- The Board is required to consider an application within 10 days of the protest period closing if no timely petition is filed.



# Decisions of the Board

§ 25-433(b)

- The record now closes 30 days after the conclusion of a hearing to allow the parties to submit documentation to the Board.
  - Documentation includes:
    - Proposed findings of fact and conclusions of law, and
    - Items requested by the Board.
- The Board has 120 days after a hearing is concluded to issue a written decision.



# Sale to Minors or Intoxicated Persons

§ 25-781(f) and § 25-783(c)

- If in a preceding 4-year period, a licensee gives, sells, delivers or allows the consumption of alcohol on its premises by a minor or intoxicated person the licensee is subject to the following penalties upon the:
  - First violation
    - The Board will fine the licensee \$2,000-\$3,000 and suspend the license 5 days.
      - The 5-day suspension may be stayed by the Board for 1 year if all employees who serve alcoholic beverages at the licensed establishment complete an alcohol training program within 3 months.



# Sale to Minors or Intoxicated Persons

§ 25-781(f) and § 25-783(c)

## ➤ Second violation

- The Board will fine the licensee \$3,000-\$5,000 and suspend the license for 10 consecutive days.
  - The Board may stay up to 6 of the 10-day suspension for 1 year if all employees who serve alcoholic beverages at the licensed establishment complete an alcohol training program within 3 months.

## ➤ Third violation

- The Board will fine the licensee \$5,000-\$10,000 and suspend the license for 15 consecutive days or revoke the license.
  - The Board may stay up to 5 days of the 15-day suspension for 1 year if all employees who serve alcoholic beverages at the licensed establishment complete an alcohol training program within 3 months.

## ➤ Fourth violation

- The Board may revoke the license.



# Sale to Minors or Intoxicated Persons

§ 25-781(f) and § 25-783(c)

- The time period for calculating the number of violations that a licensee has under D.C. Code § 25-783, Production of Valid Identification Document Required, has also changed to four years.





# Revocation or Suspension

§ 25-823

- New subsections allow the Board to fine, suspend, or revoke the license of any licensee during the license period if:
  - The licensee fails to follow the terms of its license approved by the Board; or
  - The licensee fails to preserve a crime scene.
- A single incident of assault, sexual assault, or violence shall now be sufficient to prove that the licensee allowed the licensed establishment to be used for any unlawful or disorderly purpose.



# Revocation or Suspension

§ 25-823

- A licensee shall be required to comply with the terms and conditions of the licensee's settlement agreement, security plan, or order from the Board that is attached to the license during all times of its operation.
- A single violation of a settlement agreement, security plan, or Board order shall be sufficient to prove that the licensee is subject to a fine, suspension, or revocation.



# Hearings

§ 25-826(c)

- A licensee may request a hearing within 3 business days after service of notice of a summary revocation, suspension, fine, or restriction of license.
- The Board shall hold a hearing within 2 business days of a timely request and issue a decision within 3 business days.



# Delinquent Payments

§ 25-830

- A licensee's failure to pay a fine in a timely manner shall be cause for the Board to suspend the license until the fine is paid.
- If a licensee is 90 days delinquent on the payment of a fine, the Board shall give notice of its intent to revoke the licensee's license.
- The licensee shall have 14 days to respond to the notice of intent.
- If the Board determines that the failure to pay the fine issued is not for good cause, the Board shall revoke the license.



# Enforcement Updates

# Manager and Owner Conduct

§ 25-703

- The ABC manager or owner who superintends the establishment during licensed hours of sale shall not be under the influence of alcohol or illegal drugs.



# Warning Sign

§ 25-712(e)

- The failure of a licensee to post a warning sign regarding the dangers of alcohol consumption during pregnancy is punishable as a secondary tier violation.
  - This offense was previously punishable by a \$100 fine.
- A licensee is initially entitled to a mandatory written warning for failing to post the warning sign.



# Alcohol Ads in Windows

§ 25-765 (a)

- The provision is amended to prohibit alcoholic beverage advertising that is displayed on the windows of a licensed establishment from exceeding 25% of the window space.
  - The 25% limitation previously applied to advertisements relating to the prices of alcoholic beverages.





# Seizure of License

§ 25-801

- ABRA investigators may seize a liquor license from an establishment, if:
  - The liquor license has been suspended, revoked, or cancelled by the Board;
  - The business no longer exists; or
  - The business has been closed by another District agency.



# Credit and Delinquency

§ 25-731

- Section is amended to allow District manufacturers to purchase alcoholic beverages from District wholesalers or other District manufacturers.
- Manufacturers purchasing alcoholic beverages are required to either:
  - Make full payment in cash on delivery; or
  - Make full payment in cash before the 16th day of the month following the month of purchase or delivery.



# Questions?

- Contact ABRA General Counsel Martha Jenkins:
  - (202) 442-4456
  - [Email](#)
- For more information, visit:
  - [ABRA's Website](#)
  - [DC Official Code Title 25 and DCMR Title 23](#)

